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USA,
Plaintiff,
v.
RYAN KELLY CHAMBERLAIN,
Defendant.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. [14-cr-00316-VC-1](#)

**ORDER CONTINUING HEARING ON
THE MOTION TO DISMISS AND
REQUESTING FURTHER BRIEFING**

Re: Dkt. No. 102

The defendant has raised serious questions about the constitutionality of 18 U.S.C. § 175, or at least portions of that statute. Furthermore, after the parties completed briefing on the defendant's motion to dismiss the charge under Section 175(b), the grand jury issued a second superseding indictment which added a charge under Section 175(a). The addition of a charge under Section 175(a) raises further questions, including whether it would be possible for the jury to find a set of facts under which the defendant would be guilty of violating Section 175(b) but not guilty of violating Section 175(a). Therefore, the hearing on the motion to dismiss is continued to August 25, 2015 at 1:00 p.m., and the Court requests that the parties file supplemental briefs. The government should file its supplemental brief on August 7, 2015, and the defendant should file his supplemental brief on August 14, 2015.

In its supplemental brief, the government should address the following questions:

- Is there any type of conduct that could be charged under Section 175(b) but not under Section 175(a)?
- If so, please provide some concrete examples of conduct that could be charged under Section 175(b) but not Section 175(a).
- If not, how does this affect the analysis of whether the statute is, in whole or in

1 part, unconstitutionally vague?

2 In addition, so far the government has not attempted to explain the meaning of the
3 statutory phrase, "not reasonably justified by a prophylactic, protective, bona fide research, or
4 other peaceful purpose . . ." Nor has the government attempted to explain the meaning of the
5 statutory phrase, "in its naturally occurring environment, if the biological agent or toxin has not
6 been cultivated, collected, or otherwise extracted from its natural source." The government should
7 attempt to explain what those phrases mean in its supplemental brief.

8 The parties are not limited to the above-referenced matters in their supplemental briefs, but
9 they should be sure to include them.

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IT IS SO ORDERED.

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Dated: July 27, 2015



13 VINCE CHHABRIA
14 United States District Judge

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